

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DENISE SEIBEL et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
RICHARD GERALD PAOLINO	:	No. 90-752

MEMORANDUM AND ORDER

J. M. KELLY, J. **JULY** , 2000

I. INTRODUCTION

Presently before the Court is a motion by the Plaintiffs, Denise Seibel, Deborah Aikman, Kim Blaney and Anne Marie Harrison (the “Plaintiffs”) for additional attorney’s fees. This Court previously held, in a Memorandum and Order dated May 17, 2000, that the Plaintiffs were entitled to attorney’s fees incurred in collecting their Title VII judgments in bankruptcy court. An evidentiary hearing was subsequently held to assess the amount of attorney’s fees to which the Plaintiffs were entitled. There, the Defendant, Richard Paolino (“Paolino”), objected to several aspects of the Plaintiffs’ claim. First, he disputed their entitlement to attorneys’ fees unsuccessfully sought in a prior motion, arguing the Plaintiffs’ previous failure barred them from pursuing them instantly. Second, he objected to the billable amounts charged by the Plaintiffs’ attorney. Third and finally, the Defendant took issue with the amount of time billed on certain aspects of the Plaintiffs’ case. The parties have submitted additional briefing on these issues and the Court considers it, as well as the evidence from the hearing, in awarding the Plaintiffs \$118,040.18 in attorney’s fees.

II. DISCUSSION

The Defendant's first objection to the amount of attorney's fees claimed by the Plaintiffs relates to fees incurred from June 1991 to July 1992. Following the entry of judgment in favor of the Plaintiffs, this Court granted what would be the Plaintiffs' first motion for attorney's fees for costs incurred in securing the default judgment. Thereafter, Paolino, who had since become a debtor in Chapter 7 bankruptcy proceedings, filed a motion for relief from the judgments. The Court denied his motion, after which the Plaintiffs filed what would be their second motion for attorney's fees. In it they sought \$9,685.76 for the efforts of their counsel in defeating Paolino's motion and \$37,610.76 expended in attempting to collect their Title VII judgments in bankruptcy court. The Court awarded the Plaintiffs attorney's fees incurred in defeating the motion, but denied the motion as to the fees incurred in bankruptcy court. The Defendant argues that because the Plaintiffs were previously unsuccessful in securing the \$37,610.76 in attorney's fees, they are precluded from pursuing them instantly.

In deciding the Plaintiffs' second motion for attorney's fees, this Court stated:

The Plaintiffs cite no case law directly supporting an award of attorney's fees for efforts expended in collecting a money judgment. Indeed, there is no case law supporting Plaintiffs' request. In addition, Plaintiffs' request is seemingly unlimited in that the bankruptcy proceedings have not concluded and Plaintiffs will continue to expend attorney's fees in an effort to collect its judgments. Although Plaintiffs indicate they believe the bankruptcy proceedings are near completion, there is no real guarantee that Plaintiffs will not expend considerably more efforts to collect their judgments. In light of the above, the court will deny Plaintiffs' request for attorney's fees resulting from its collection efforts in the bankruptcy proceedings.

Seibel v. Paolino, Civ. A. No. 90-752, 1992 WL 245613, at *2 (E.D. Pa. Sept. 16, 1992). This language in no way indicates that the Plaintiffs would be precluded from pursuing attorney's fees

incurred during the bankruptcy proceedings at a later date. Rather, that aspect of the Plaintiffs' motion was deemed simply a premature or interim application for attorney's fees. Although not exactly in this context, the Third Circuit has recognized that an initial denial of a motion for interim attorney's fees does not necessarily preclude their award at a later time. See Yakowicz v. Pennsylvania, 683 F.2d 778, 779 (3d Cir. 1982). More specifically, the Yakowicz court held that a denial of a motion for interim attorney's fees is not a final order for purposes of appealability. See id. In so holding, the court recognized that the district court's order did not, once and for all, decide the plaintiff was not entitled to attorney's fees for her action. See id. at 783. "On the contrary, it imposed not the slightest bar to an eventual determination that [the plaintiff] is entitled to such an award, should the district court conclude at some future point that an award of attorney's fees is appropriate under the statute." Id. Accordingly, the Court's prior order denying the Plaintiffs' motion for attorney's fees does not preclude their award instantly.

Having found, therefore, that the Plaintiffs are entitled to attorney's fees incurred during their entire effort in bankruptcy court, the Court now turns to the Defendant's objections over the billable rate of and hours billed by the Plaintiffs' attorney. In the instant motion, the Plaintiffs seek \$200.00 per hour for the senior attorney's work, \$120.00 per hour for the associate attorney's work and \$75.00 per hour for the services of the legal assistant. The Court notes initially that these amounts are identical to those awarded to the Plaintiffs in their first motion for attorney's fees over eight years ago. Additionally, that the Plaintiffs' attorney concentrates his practice in the field of employment law does not undermine the reasonableness of his billable rates. As the Plaintiffs' attorney testified at the hearing on this matter, the Plaintiffs' Title VII case was essentially litigated de novo in the bankruptcy court. Furthermore, to the extent

bankruptcy law issues arose, they tended to be matters of first impression that combined specific aspects of Title VII and bankruptcy law. Based on this evidence, the Court cannot say that the billable rates charged by the Plaintiffs' attorney were unreasonable. Similarly, in light of the complex and unique issues raised during Paolino's bankruptcy, the Court cannot say that the number of hours billed was unreasonable. Accordingly, the Plaintiffs are entitled to \$114,040.18 in attorney's fees expended in pursuing their Title VII judgments in bankruptcy court.

Finally, the Plaintiffs request, in their post-hearing brief, attorney's fees in the amount of \$4,000.00 incurred in prosecuting the instant motion for attorney's fees.¹ It is well-established that plaintiffs in a successful civil rights action are entitled to attorney's fees incurred in litigating their entitlement to attorney's fees. See Hernandez v. Kalinowski, 146 F.3d 196, 199 (3d Cir. 1998); Hernandez v. George, 793 F.2d 264, 269 (3d Cir. 1986); see also Bond v. Stanton, 630 F.2d 1231, 1235 (7th Cir. 1980). Therefore, the Court finds that the Plaintiffs are entitled to an additional \$4,000.00 in attorney's fees for their efforts in pursuing their instant entitlement to attorney's fees.

¹ The Defendant chose not to avail himself of the opportunity to respond to the Plaintiffs' post-hearing brief, and accordingly, to the Plaintiffs' supplemental claim for attorney's fees. Nonetheless, the Court assumes the Defendant's prior arguments apply to the instant claim as well. Therefore, the Court's previous discussion is equally applicable to this claim.

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ORDER

AND NOW, this day of July, 2000, in consideration of the Court's Memorandum and Order dated May 17, 2000, the evidentiary hearing held in response thereto and the supplemental memoranda of law filed by the parties, it is ORDERED that the Defendant, Richard Paolino must pay the Plaintiffs, Denise Seibel, Deborah Aikman, Kim Blaney and Anne Marie Harrison, attorney's fees and litigation costs in the amount of \$118,040.18. This amount is in addition to those attorney's fees and litigation costs previously ordered by this Court on June 11, 1991 and September 16, 1992.

BY THE COURT:

JAMES MCGIRR KELLY, J.